IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.696 OF 2005

Anupam Ramjan Sharma and anr. ... Applicants

versus

The State of Maharashtra ... Respondent

...

Mr. M.V. Limaye, for the Applicants.

Mr. V.B. Konde Deshmukh, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

17th February 2005

P.C.:

. Heard Counsel for the parties. Perused the record. The incident in question has occurred at about 13.30 hours on 31st August 2004. The prosecution case in the F.I.R. is that the Applicant No.2, brother in law of the deceased, poured kerosene and Applicant No.1, her husband, had put the deceased on fire by lighting

matchstick. The case as made out in the F.I.R., which was, however, recorded on the next day at about 8.10 hours, i.e., 1st September 2004, is reproduced in verbatim in the dying declaration of the decased, which has been recorded at 12.15 hours on 1st September 2004. The concerned doctor has made endorsement that though the patient is conscious, her pronounciation is not very clear. Viewed in this perspective, there is substance in the argument of the Applicants that the documents, namely, F.I.R. as well as the dying declaration, is doubtful. To support this argument, reliance is also placed on the statement of Vandana Arun Thombare, which has been recorded during the course of investigation on the same day, i.e.,1st September 2004, which would falsify the case made out in the F.I.R. as well as the dying declaration that the Applicant No.1 had put the deceased on fire and locked the door from outside. On the other hand, the picture that emerges from the statement of Sou. Vandana Arun Thombare is that the Applicant No.1 was outside and the door was locked from inside and he was attempting to break open the lock. Viewed in this perspective, the prosecution case,

prima facie, becomes doubtful. Something else must have happened on the date of incident, but all those aspects are matter for trial. Suffice it to observe that as the investigation is complete, and charge sheet has also been filed, and in view of the nature of evidence on record, as referred to above, the Applicants deserve to be enlarged on bail on the following conditions.

(A) The Applicants are granted bail in connection with CR.No.I-245/2004 registered with Kalamboli Police Station on executing personal bond in the sum of Rs.20,000/- (Rupees Twenty thousand only) each with one or two local sureties in the like amount.

(B) The Applicants shall not influence the prosecution witnesses nor shall tamper with the prosecution evidence in any manner whatsoever.

(C) The Applicants shall co-operate for early disposal of the trial. If the trial Court is of the opinion that the

Applicants are in any manner responsible for delay in disposal of the trial, that fact be recorded in the roznama, which can be a ground for cancellation of bail.

. Application disposed of on the above terms.

(A.M.KHANWILKAR,J.)